

FISH & RICHARDSON P.C.

Suite 1100
919 N. Market Street
P.O. Box 1114
Wilmington, Delaware
19899-1114

Telephone
302 652-5070

Facsimile
302 652-0607

Web Site
www.fr.com

William J. Marsden, Jr.
302 778-8401

Email
marsden@fr.com

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

VIA ECF AND HAND DELIVERY

September 28, 2007

The Honorable Joseph J. Farnan, Jr.
United States District Court for the
District of Delaware
844 King Street
Wilmington, DE 19801

Re: *NICE Systems, Inc. & NICE Systems Ltd. v. Witness Systems, Inc.*
U.S.D.C. (D. Del.) – Civil Action No. 1:06-CV-00311-JJF



ATLANTA

AUSTIN

BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Dear Judge Farnan:

I write on behalf of my client, Defendant Witness Systems, Inc. (“Witness Systems”) and on behalf of Plaintiffs NICE Systems, Inc. and NICE Systems Ltd. (collectively “NICE”) with regard to Witness Systems’ pending Motion to Strike (D.I. 225), currently set for hearing on October 5, 2007. On September 24, 2007, after the filing of NICE’s response brief (D.I. 229), Witness Systems proposed an agreement to resolve its motion which led to the attached stipulation, which the parties jointly request be entered as an Order. Accordingly, Witness Systems withdraws its pending Motion to Strike (D.I. 225), and requests that this matter be removed from the Court’s hearing calendar on October 5, 2007.

Of course, counsel for the parties will make themselves available at the Court’s convenience if the Court has any questions regarding the foregoing or the attached stipulated order.

Respectfully,

/s/William J. Marsden, Jr.

William J. Marsden, Jr.

cc: Josy W. Ingersoll, Esq.
Melanie K. Sharp, Esq.
Scott G. Lindvall, Esq.
Joseph M. Drayton, Esq.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICE SYSTEMS, INC. and
NICE SYSTEMS LTD.,

Plaintiff,

v.

Civil Action No. 06-311-JJF

WITNESS SYSTEMS, INC.,

Defendant.

[PROPOSED] JOINT STIPULATED ORDER

Plaintiffs NICE Systems, Inc. and NICE Systems Ltd. (collectively, “NICE”) and Defendant Witness Systems, Inc. hereby stipulate and agree to the following Order:

1. NICE confirms that its contention concerning the conception date for U.S. Patent No. 5,274,738 is April 21, 1989;
2. NICE confirms that it does not contend and will not file any contentions that any of the claimed inventions were reduced to practice any earlier than the patent application filing date to which the relevant patent claims priority;
3. NICE will not object to the timeliness of, or attempt to exclude on that basis, any of Witness Systems’ invalidity contentions served to date, including its September 10, 2007 supplementation;
4. NICE will not attempt to further supplement its contentions for dates of conception and/or reduction to practice for any of the patents in suit; and
5. Witness Systems will not attempt to further supplement its invalidity contentions for any of the patents-in-suit.

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

/s/Melanie K. Sharp

Melanie K. Sharp (No. 2501)
Mary F. Dugan (No. 4704)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801

P.O. Box 391
Wilmington, DE 19899
(302)571-6681
msharp@ycst.com

KAYE SCHOLER LLP
Scott G. Lindvall
Joseph M. Drayton
425 Park Avenue
New York, NY 10022
(212)836-8000

*Attorneys for Plaintiffs
Nice Systems, Inc. and Nice Systems, Ltd.*

FISH & RICHARDSON, P.C.

/s/William J. Marsden, Jr.

William J. Marsden, Jr. (No. 2247)
Kyle Wagner Compton (No. 4693)
919 North Market Street, Suite 1100
P.O. Box 1114
Wilmington, DE 19899- 1114
(302)778-8447
kcompton@fr.com

Nagandra Setty
Daniel A. Kent
1180 Peachtree Street, NE, 21st Floor
Atlanta., GA 30309

*Attorneys for Defendant
Witness Systems, Inc.*

Dated: September 28, 2007

SO ORDERED this ____ day of October, 2007.

Joseph J. Farnan, Jr.
United States District Judge